

## Department of State

## § 92.81

officials copies of birth, death, and marriage certificates, or copies of other public records such as divorce decrees, probated wills, and so on. The interest of the party requesting the document should be clearly indicated, and there should be good reason for asking for the consular officer's assistance. Persons requesting documents for use in the preparation of family trees or in the compilation of genealogical studies should be referred to a local attorney or to a genealogical research bureau if one is available.

(b) *Payment of expenses involved*—(1) *Official funds not to be used.* The use of official funds to pay for copies of or extracts from foreign public records obtained at the request of private persons is prohibited.

(2) *Payment of costs by Federal Government.* In instances of requests emanating from departments or agencies of the Federal Government for copies of or extracts from foreign public records, the Department will issue to Foreign Service posts concerned appropriate instructions with respect to the payment of whatever local costs may be entailed if the documents cannot be obtained gratis from the local authorities.

(3) *Payment of costs by State or municipal governments.* Should State, county, municipal or other authorities in the United States besides the Federal Government request the consular officer to obtain foreign documents, and express willingness to supply documents gratis in analogous circumstances, the consular officer may endeavor on that basis to obtain the desired foreign documents gratis. Otherwise, such authorities should be informed that they must pay the charges of the foreign officials, as well as any fees which it may be necessary for the consular officer to collect under the provisions of the Tariff of Fees, Foreign Service of the United States of America (§ 22.1 of this chapter).

(4) *Payment of costs by private persons.* Before a consular officer endeavors to obtain a copy of a foreign public document in behalf of a private person, the person requesting the document should be required to make a deposit of funds in an amount sufficient to defray any charges which may be made by the foreign authorities, as well as the Foreign

Service fee for authenticating the document, should authentication be desired.

### § 92.80 Obtaining American vital statistics records.

Individuals who inquire as to means of obtaining copies of or extracts from American birth, death, marriage, or divorce records may be advised generally to direct their inquiries to the Vital Statistics Office at the place where the record is kept, which is usually in the capital city of the State or Territory. Legal directories and other published works of references at the post may be of assistance in providing exact addresses, information about fees, etc. An inquirer who is not an American citizen may write directly to the diplomatic or appropriate consular representative of his own country for any needed assistance in obtaining a desired document.

### QUASI-LEGAL SERVICES

### § 92.81 Performance of legal services.

(a) *Legal services defined.* The term "legal services" means services of the kind usually performed by attorneys for private persons and includes such acts as the drawing up of wills, powers of attorney, or other legal instruments.

(b) *Performance usually prohibited*—(1) *General prohibition; exceptions.* Officers of the Foreign Service should not perform legal services except when instructed to do so by the Secretary of State, or in cases of sudden emergency when the interests of the United States Government, might be involved, or in cases in which no lawyer is available and refusal to perform the service would result in the imposition of extreme hardship upon a United States citizen. There is no objection, however, to permitting persons to use the legal references in the Foreign Service office giving specimen forms of wills, powers of attorney, etc.

(2) *Specific prohibitions and restrictions.* See § 72.41 of this chapter for prohibition of performance of legal services by consular officers in connection with decedents' estates. See § 92.11 restricting the preparation for private parties of legal documents for signature and notarization.

(3) *Acceptance of will for deposit prohibited.* Wills shall not be accepted for safekeeping in the office safe. If a person desires to have his last will and testament made a matter of record in a Foreign Service establishment, the officer to whom application is made shall have the will copied in the Miscellaneous Record Book (§92.77) and charge the prescribed fee therefor.

(c) *Refusal of requests.* In refusing requests for the performance of legal services, an officer of the Foreign Service should cite these regulations and should state clearly his reasons for refusing to act. In appropriate cases, the officer may furnish the inquirer with a copy of the annual list of attorneys (see §92.82) practicing in the consular district or he may refer the inquirer to the Department for a list of attorneys.

(d) *Waiver of responsibility.* When an officer of the Foreign Service accedes to a request for the performance of a legal service, he should inform the applicant that the service is performed at the latter's risk and without any responsibility on the part of the United States Government or the officer performing the service.

(e) *Fees.* No fee should be charged for any legal services which may be performed under these regulations, beyond the fees or charges for specific services enumerated in the Tariff of Fees, Foreign Service of the United States of America (§22.1 of this chapter).

**§92.82 Recommending attorneys or notaries.**

(a) *Assistance in selecting American lawyers.* When any person in the district of a Foreign Service post desires to have the name of an attorney in the United States, the officer at the post may refer him to American law directories or other published references at his disposal, but he shall refrain from recommending any particular attorney.

(b) *Assistance in selecting foreign attorneys or notaries.* Persons applying to a Foreign Service post for services of a legal or fiduciary character or for assistance in selecting an attorney or notary capable of rendering the services in view, may be furnished the names of several attorneys or notaries in the district, or referred to the lists to be

found in American or foreign law directories or other published references. Alternatively, they may be referred to bar associations or, where applicable, to the organization charged by local law with the responsibility for providing legal assistance.

(c) *Agreements for referral of legal business prohibited.* Officers of the Foreign Service shall not recommend particular attorneys or notaries to persons who apply to a Foreign Service post for legal assistance, nor shall they make agreements with attorneys or notaries for the referral to them of inquiries for legal assistance.

**§ 92.84 Legal process defined.**

Legal process means a writ, warrant, mandate, or other process issuing from a court of justice. The term includes subpoenas, citations, and complaints.

**§92.85 Service of legal process usually prohibited.**

The service of process and legal papers is not normally a Foreign Service function. Except when directed by the Department of State, officers of the Foreign Service are prohibited from serving process or legal papers or appointing other persons to do.

[32 FR 11776, Aug. 16, 1967]

**§92.86 Consular responsibility for serving subpoenas.**

When directed by the Department of State, officers of the Foreign Service will serve a subpoena issued by a court of the United States on a national or resident of the United States who is in a foreign country unless such action is prohibited by the law of the foreign country.

[32 FR 11776, Aug. 16, 1967]

**§92.87 Consular responsibility for serving orders to show cause.**

Officers of the Foreign Service are required to serve orders to show cause issued in contempt proceedings on a person who has failed or neglected to appear in answer to a subpoena served in accordance with the provisions of §92.86. (Section 1, 62 Stat. 949; 28 U.S.C. 1784.)